

DEPARTMENT OF LABOR AND INDUSTRY

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Sub-Chapter 1

Organizational Rule

24.126.101 BOARD ORGANIZATION (1) The board of chiropractors hereby adopts and incorporates the organizational rules of the department of labor and industry as listed in chapter 1 of this title. (History: 37-12-201, MCA; IMP, 2-4-201, MCA, Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2003 MAR p. 2761.)

Sub-Chapter 2

Procedural Rules

24.126.201 PROCEDURAL RULES (1) The board of chiropractors hereby adopts and incorporates the procedural rules of the department of labor and industry as listed in chapter 2 of this title. (History: 37-12-201, MCA; IMP, 2-4-201, MCA, Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2003 MAR p. 2761.)

24.126.202 PUBLIC PARTICIPATION RULES (1) The board of chiropractors hereby adopts and incorporates by this reference the public participation rules of the department of commerce as listed in chapter 2 of this title. (History: 37-12-201, MCA; IMP, 2-3-103, MCA; NEW, 1980 MAR p. 3129, Eff. 12/27/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2003 MAR p. 2761.)

Subchapter 3

Definitions

24.126.301 DEFINITIONS (1) "Chaperone" as used in 37-12-607, MCA, means an individual delegated to ensure proper behavior on the part of the provider and the patient during the course of a physical examination or treatment.

(2) "Diagnostic x-ray" as used in 37-12-104, MCA, shall mean any recognized form of diagnostic imaging including, but not limited to, x-ray, CAT scan and MRI.

(3) "Dietetic methods" as used in 37-12-104, MCA, shall mean any service, when performed, or ordered to be performed, by any licensed chiropractor, for therapeutic effects, which may employ recommending, and/or giving of any food, vitamin, mineral, herb, enzyme, glandular product, homeopathic preparation, diet plan or other nutritional substance not requiring a medical prescription.

(4) "New doc seminar" means a program provided by the board that is targeted to new licensees as a source of information on state laws and rules and other various topics. The program is open to all licensed chiropractors.

(5) "Physiotherapy" as used in 37-12-104, MCA, shall mean any service, when performed, or ordered to be performed, by any licensee, employing for therapeutic effects, physiological measures, activities and devices for preventive and therapeutic purposes, physiological agents including, but not limited to, mechanical devices, heat, air, light, water, electricity, sound, exercise, rehabilitative procedures, massage and mobilization, when performed for the purpose of diagnosis, evaluation, treatment and instruction of the human body to detect, assess, correct, alleviate, prevent, and limit physical disability, injury, body malfunction, pain, mental condition by the aforementioned agents or any other procedure taught in chiropractic colleges for the purpose of preventing, correcting or alleviating a physiological or mental disability or condition. (History: 37-1-131, 37-1-319, 37-12-201, MCA; IMP, 37-1-131, 37-12-104, 37-12-201, MCA; NEW, 1990 MAR p. 995, Eff. 6/1/90; AMD, 1992 MAR p. 2131, Eff. 9/25/92; TRANS, from Commerce, 2003 MAR p. 2761; AMD, 2004 MAR p. 729, Eff. 4/9/04; AMD, 2006 MAR p.1609, Eff. 6/23/06.)

Subchapter 4

General Provisions

24.126.401 FEE SCHEDULE

(1) Application fee	\$300
(2) Reexamination fee of jurisprudence (written)	100
(3) Renewal fee	
(a) Active license	200
(b) Inactive license	100
(c) Impairment evaluator	25
(4) Temporary permit	100
(5) Application for impairment evaluators	250
(6) Application fee for student/interns	100
(7) Application fee for practitioners	
proposing to serve as preceptors	100
(8) All fees are nonrefundable.	
(9) Additional standardized fees are specified in ARM 24.101.403. (History: 37-1-134, 37-12-201, MCA; <u>IMP</u> , 37-1-134, 37-1-141, 37-12-201, 37-12-302, 37-12-304, MCA; <u>NEW</u> , 1990 MAR p. 1251, Eff. 6/15/90; <u>AMD</u> , 1990 MAR p. 1453, Eff. 7/27/90; <u>AMD</u> , 1994 MAR p. 2713, Eff. 10/14/94; <u>AMD</u> , 1996 MAR p. 2844, Eff. 10/25/96; <u>AMD</u> , 2000 MAR p. 1307, Eff. 5/26/00; <u>TRANS</u> , from Commerce, 2003 MAR p. 2761; <u>AMD</u> , 2004 MAR p. 729, Eff. 4/9/04; <u>AMD</u> , 2006 MAR p. 1609, Eff. 6/23/06; <u>AMD</u> , 2006 MAR p. 1583, Eff. 7/1/06.)	

24.126.402 FEE ABATEMENT (1) The Board of Chiropractors adopts and incorporates by reference the fee abatement rule of the Department of Labor and Industry found at ARM 24.101.301.

(2) A copy of ARM 24.101.301 is available by contacting the Board of Chiropractors, 301 South Park Avenue, P.O. Box 200513, Helena, MT 59620-0513. (History: 37-1-131, MCA; IMP, 17-2-302, 17-2-303, 37-1-134, MCA; NEW, 2006 MAR p. 1609, Eff. 6/23/06.)

24.126.403 PURPOSE OF THE BOARD (REPEALED) (History: 37-12-201, MCA; IMP, 37-12-104, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2003 MAR p. 2761; REP, 2004 MAR p. 729, Eff. 4/9/04.)

Rule 24.126.404 reserved

24.126.405 BOARD MEETINGS (1) The secretary shall notify the board members in writing of all statutory meetings.

(2) Roberts Rules of Order shall govern the deliberations of the board insofar as they do not conflict with other rules that the board may adopt or with the laws of the state of Montana. (History: 37-12-201, MCA; IMP, 37-12-201, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2003 MAR p. 2761.)

24.126.406 RECORD OF MINUTES AND HEARINGS (1) An official record of the entire proceedings of a meeting, or minutes, shall be kept for all public meetings and shall be made available to each member of the board by the department. (History: 2-6-101, MCA; IMP, 2-6-101, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2003 MAR p. 2761; AMD, 2008 MAR p. 1978, Eff. 9/12/08.)

Rules 24.126.407 through 24.126.410 reserved

24.126.411 PATIENT RECORDS RETENTION (1) Chiropractors are required to retain adult patient records and x-rays for a minimum of five years and a minor patient's records and x-rays for a minimum of five years from their last treatment or at least one year past their 18th birthday. Medicaid requires that minor patient records be kept until the patient's 23rd birthday. (History: 37-1-131, 37-12-201, MCA; IMP, 37-1-201, MCA; NEW, 2000 MAR p. 1307, Eff. 5/26/00; TRANS, from Commerce, 2003 MAR p. 2761.)

Rules 24.126.412 through 24.126.414 reserved

24.126.415 PARTICIPATION IN DISASTER AND EMERGENCY CARE -- LIABILITY OF CHIROPRACTOR (1) A chiropractor licensed in this state, licensed or authorized to practice in another state, territory, or possession of the United States, or credentialed as a chiropractor by a federal employer who provides medical care response to an emergency or a federal, state, or local disaster may provide that care without supervision as required by this chapter or with whatever supervision is available. The provision of care allowed by this section is limited to the duration of the emergency or disaster.

(2) A chiropractor who supervises a temporary licensee in response to an emergency or disaster as described in (1) need not comply with the requirements of this chapter applicable to supervising chiropractors.

(3) A chiropractor referred to in (1) who voluntarily, gratuitously, and other than in the ordinary course of employment or practice renders emergency chiropractic care during an emergency or disaster described in (1) is not liable for civil damages for a personal injury resulting from an act or omission in providing that care if the injury is caused by simple or ordinary negligence and if the care is provided somewhere other than in a health care facility or a chiropractic office where those services are normally provided.

(4) A chiropractor who supervises a temporary licensee voluntarily and gratuitously providing emergency care at an emergency or disaster described in (1) is not liable for civil damages for a personal injury resulting from an act or omission in supervising the temporary licensee if the injury is caused by simple or ordinary negligence on the part of the temporary licensee providing the care or on the part of the supervising chiropractor. (History: 37-1-131, 37-12-201, MCA; IMP, 37-1-131, 37-12-104, 37-12-201, MCA; NEW, 2006 MAR p. 1609, Eff. 6/23/06.)

Subchapter 5

Licensing and Scope of Practice

24.126.501 APPLICATIONS (1) Pursuant to the requirements of 37-12-302, MCA, an application for original license, renewal, examination, temporary permit, or conversion of an inactive license must be made on a form provided by the department and completed and signed by the applicant.

(2) The application must be accompanied by the appropriate fee(s) and contain sufficient evidence that the applicant possesses the qualifications set forth in Title 37, chapter 12, MCA, and rules promulgated thereunder.

(3) Applications not completed within one year of submission will be closed and the applicant will have to reapply.

(4) The department shall notify the applicant in writing of the results of its evaluation of the application.

(5) All requests for reasonable accommodations under the Americans with Disabilities Act of 1990, 42 USC 12101, et seq., must be made on forms provided by the board and submitted within a reasonable time prior to the date on which the reasonable accommodation is requested.

(6) The following must accompany an application:

(a) official transcripts sent directly from the appropriate educational institution, including the applicant's CCE-accredited chiropractic college;

(b) a certified copy of the national board examination results sent directly from the National Board of Chiropractic Examiners (NBCE) of Parts I and II, Part III, Part IV, and physiotherapy;

(c) verification of licensure sent directly from any state in which the applicant has held or holds a license; and

(d) affidavits regarding the applicant's good moral character from two persons not related to the applicant. (History: 37-1-131, 37-12-201, MCA; IMP, 37-1-131, 37-12-302, 37-12-304, MCA; Eff. 12/31/72; AMD, 1979 MAR p. 442, Eff. 5/11/79; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1982 MAR p. 6, Eff. 1/15/82; AMD, 1982 MAR p. 1540, Eff. 8/13/82; AMD, 1984 MAR p. 499, Eff. 3/30/84; AMD, 1986 MAR p. 201, Eff. 2/14/86; AMD, 1986 MAR p. 1182, Eff. 7/18/86; AMD, 1990 MAR p. 995, Eff. 6/1/90; AMD, 1990 MAR p. 1144, Eff. 6/15/90; AMD, 1992 MAR p. 2131, Eff. 9/25/92; AMD, 1994 MAR p. 1578, Eff. 6/10/94; AMD, 1994 MAR p. 2713, Eff. 10/14/94; AMD, 1996 MAR p. 2844, Eff. 10/25/96; AMD, 1998 MAR p. 1494, Eff. 6/12/98; TRANS, from Commerce, 2003 MAR p. 2761; AMD, 2006 MAR p. 1609, Eff. 6/23/06; AMD, 2008 MAR p. 1978, Eff. 9/12/08.)

Rules 24.126.502 and 24.126.503 reserved

24.126.504 EXAMINATION REQUIREMENTS (1) The board accepts as its approved method of examination the NBCE examination, including Parts I and II, Part III, Part IV, and physiotherapy. In addition, the applicant must pass the state jurisprudence examination with a minimum score of 75 percent. (History: 37-1-131, 37-12-201, MCA; IMP, 37-12-304, MCA; Eff. 12/31/72; AMD, 1979 MAR p. 442, Eff. 5/11/79; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1982 MAR p. 1540, Eff. 8/13/82; AMD, 1983 MAR p. 1247, Eff. 9/16/83; AMD, 1988 MAR p. 44, Eff. 1/15/88; AMD, 1990 MAR p. 995, Eff. 6/1/90; AMD, 1992 MAR p. 2131, Eff. 9/25/92; AMD, 1996 MAR p. 2844, Eff. 10/25/96; AMD, 1998 MAR p. 1494, Eff. 6/12/98; AMD, 2000 MAR p. 1307, Eff. 5/26/00; TRANS, from Commerce, 2003 MAR p. 2761; AMD, 2008 MAR p. 1978, Eff. 9/12/08.)

Rules 24.126.505 and 24.126.506 reserved

24.126.507 TEMPORARY PERMIT (1) Temporary permit applicants may be issued a permit under 37-1-305, MCA, while waiting to take either Part IV of the NBCE or the Special Purposes Examination for Chiropractors (SPEC). The permit shall require the permit holder to practice under the on-premises supervision of a chiropractor licensed in the state of Montana.

(2) A temporary permit applicant must take and pass the jurisprudence exam by a minimum of 75 percent before a temporary permit will be granted.

(3) A temporary permit holder may not sign insurance claims, workers' compensation claims, Medicare/Medicaid claims, or birth or death certificates. Only licensed practitioners have this authority.

(4) A notarized statement consenting to the above conditions shall be signed by both the supervising licensed chiropractor and the applicant, and filed with the department.

(5) Any advertisement where the temporary permit holder is named or pictured must state that the individual holds a temporary permit and if applicable, must include the designation, "intern." This designation must appear with the name of the supervising licensed chiropractor. (History: 37-1-131, 37-1-319, 37-12-201, MCA; IMP, 37-1-305, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1982 MAR p. 1540, Eff. 8/13/82; AMD, 1990 MAR p. 995, Eff. 6/1/90; AMD, 1996 MAR p. 2844, Eff. 10/25/96; AMD, 1998 MAR p. 1494, Eff. 6/12/98; AMD, 2000 MAR p. 1307, Eff. 5/26/00; TRANS, from Commerce, 2003 MAR p. 2761; AMD, 2006 MAR p. 1609, Eff. 6/23/06; AMD, 2008 MAR p. 1978, Eff. 9/12/08.)

Rules 24.126.508 and 24.126.509 reserved

24.126.510 ENDORSEMENT (1) In order to receive a license by endorsement, license applicants shall provide proof of equal credentials from the state where the license applicant holds a current, active license. In instances where the applicant cannot demonstrate equal credentials, the applicant may obtain a license upon successful passage of the SPEC examination administered by the NBCE. (History: 37-12-201, MCA; IMP, 37-1-131, 37-1-304, MCA; NEW, 1998 MAR p. 1494, Eff. 6/12/98; TRANS, from Commerce, 2003 MAR p. 2761; AMD, 2006 MAR p. 1609, Eff. 6/23/06; AMD, 2008 MAR p. 1978, Eff. 9/12/08.)

24.126.511 DISPLAY OF LICENSE (1) The form of license is to be made and approved by the department and signed by the applicant pursuant to 37-1-104, MCA.

(2) All persons engaged in the practice of chiropractic must display their license in a conspicuous place for members of the public to view.

(3) Licenses must not be defaced, altered or duplicated for display requirements.

(4) Licensees shall immediately notify the department of lost, damaged, or destroyed licenses and obtain a duplicate license by submitting a written request to the department. (History: 37-1-131, 37-12-201, MCA; IMP, 37-1-104, 37-12-201, MCA; NEW, 2004 MAR p. 729, Eff. 4/9/04; AMD, 2006 MAR p. 1609, Eff. 6/23/06.)

Subchapter 6 reserved

Subchapter 7

Licensing and Board Specific Rules

24.126.701 INACTIVE STATUS AND CONVERSION TO ACTIVE STATUS

(1) A licensed chiropractor who wishes to retain a license but who will not be practicing chiropractic in Montana may obtain an inactive status license upon submission of an application. An individual licensed on inactive status may not practice chiropractic in Montana during the period in which the licensee remains on inactive status.

(2) An individual licensed on inactive status may convert the inactive status license to active status by submission of an appropriate application, payment of the renewal fee for the year in question, evidence that the licensee is in good standing in all jurisdictions in which the licensee holds or has held a license, and evidence of one of the following:

(a) during each year of inactive status in this state, full-time (no less than 1500 hours per year) practice of chiropractic under a license in good standing in another state that requires completion of continuing education substantially equivalent to that required under these rules and fulfillment of those requirements; or

(b) proof of completion of 12 hours of approved continuing education in the year preceding activation. (History: 37-1-131, 37-1-319, 37-12-201, MCA; IMP, 37-1-319, 37-12-201, MCA; NEW, 1987 MAR p. 1343, Eff. 8/14/87; AMD, 1996 MAR p. 2844, Eff. 10/25/96; TRANS, from Commerce, 2003 MAR p. 2761; AMD, 2006 MAR p. 1609, Eff. 6/23/06; AMD, 2008 MAR p. 1978, Eff. 9/12/08.)

Rules 24.126.702 and 24.126.703 reserved

24.126.704 INTERNS AND PRECEPTORS (1) Interns will only be allowed to practice under the direction and supervision of a licensed chiropractor (the "preceptor") in the state of Montana.

(2) Prior to acting as an intern, a pregraduate student or postgraduate must apply to the board and in so doing, must provide the following:

- (a) a completed application on a form provided by the department;
- (b) current transcripts from the chiropractic college attended;
- (c) a letter from the chiropractic college the student is attending that lists the student's date of matriculation and expected graduation date or a copy of a diploma;
- (d) proof of passage of the jurisprudence exam with a minimum score of 75 percent; and
- (e) a signed conditions statement from the sponsoring preceptor and the intern.

(3) Interns may not sign insurance claims, workers' compensation claims, Medicare claims, birth or death certificates, or other documents that require the signature of a licensed chiropractor.

(4) Interns shall follow the laws and rules of the board, the same as if they were licensed as a chiropractor.

(5) Before acting as a preceptor, a chiropractor must meet the following requirements:

(a) must be in good standing with the board; and

(b) must have a minimum of five years of practice in the state of Montana.

(6) A preceptor must comply with the following guidelines:

(a) provide malpractice insurance, if coverage over and above that which is provided by the chiropractic college is required;

(b) maintain a presence within the practice environment at all times when an intern is seeing patients;

(c) comply with the guidelines on involving an intern in the care of patients of the field doctor as required by the chiropractic college; and

(d) include a designation that the pregraduate or postgraduate intern is an "intern" on any type of advertisement. This designation must appear with the name of the licensed preceptor supervising the intern. (History: 37-1-131, 37-12-201, MCA; IMP, 37-12-304, MCA; NEW, 1994 MAR p. 2713, Eff. 10/14/94; AMD, 2000 MAR p. 1307, Eff. 5/26/00; TRANS, from Commerce, 2003 MAR p. 2761; AMD, 2006 MAR p. 1609, Eff. 6/23/06; AMD, 2008 MAR p. 1978, Eff. 9/12/08.)

Subchapter 8 reserved

Subchapter 9

Impairment Evaluators

24.126.901 APPLICATIONS FOR CERTIFICATION OF IMPAIRMENT EVALUATORS

(1) Any licensed chiropractor desiring to be certified as an impairment evaluator to rate impairments of workers' compensation claimants or insurers shall file an application with the board.

(2) Applicants shall have been in active clinical practice in Montana for a minimum of one year.

(3) Applicants may qualify for the certification examination by:

(a) successfully completing a board-approved program for education and training of certified chiropractic impairment evaluators; or

(b) successfully completing an educational and training program relating to chiropractic orthopedics, impairment ratings, or similar course work from a Council on Chiropractic Education (CCE) status chiropractic college or any other college or university approved by the board; or

(c) by being in practice for more than five years and successfully demonstrating to the board that the applicant has completed a certified program equal to that recommended by the board.

(4) Diplomates of the American Board of Chiropractic Orthopedists (DABCO) in practice more than five years are exempt from the educational and training requirements.

(5) Applicants shall take and pass an impairment evaluator examination prescribed and approved by the board with a minimum score of 75 percent.

(6) Applications shall be accompanied by official transcripts, diplomas, or similar certificates evidencing successful completion of one of the types of education and training programs approved by the board. Successful completion is deemed written certification by the course provider. (History: 37-12-201, MCA; IMP, 37-12-201, MCA; NEW, 1990 MAR p. 1453, Eff. 7/27/90; AMD, 1996 MAR p. 2844, Eff. 10/25/96; TRANS, from Commerce, 2003 MAR p. 2761; AMD, 2008 MAR p. 1978, Eff. 9/12/08.)

Rules 24.126.902 and 24.126.903 reserved

24.126.904 MINIMUM REQUIREMENTS FOR BOARD-APPROVED PROGRAMS TO QUALIFY FOR CERTIFICATION AS AN IMPAIRMENT EVALUATOR

(1) In order to qualify for board approval, programs shall include a minimum of 36 hours of classroom course work consisting of 24 hours of education in impairment rating from a college certified by the Council on Chiropractic Education, and 12 hours in a course on impairment rating utilizing the current edition of the Journal of American Medical Association (JAMA) Guidelines. (History: 37-12-201, MCA; IMP, 37-12-201, MCA; NEW, 1990 MAR p. 1453, Eff. 7/27/90; AMD, 1996 MAR p. 3212, Eff. 10/25/96; TRANS, from Commerce, 2003 MAR p. 2761; AMD, 2008 MAR p. 1978, Eff. 9/12/08.)

Rules 24.126.905 and 24.126.906 reserved

24.126.907 APPROVAL OF TRAINING PROGRAMS FOR IMPAIRMENT EVALUATORS

(1) Applications for approval of training programs for impairment evaluators shall be made by letter with supporting documents and must demonstrate to the satisfaction of the board that such programs fulfill the requirements of the board.

(2) The supporting documents must include a syllabus or program outline specifying the classroom hours for each segment of the program, a vitae of each instructor and the method to be employed in monitoring attendance.

(3) In evaluating proposed training programs, the board may investigate and make personal inspections, or delegate to one or more of its members or any other duly qualified persons the authority to make such investigations and inspections for the board. Such investigations and inspections will be at the expense of the program sponsors.

(4) When the training program is approved, the board will issue a letter of approval for the training program for a period of two years.

(5) Approval of a program may be withdrawn when the board finds that the program fails to maintain the educational standards set forth in the original application. (History: 37-12-201, MCA; IMP, 37-12-201, MCA; NEW, 1990 MAR p. 1453, Eff. 7/27/90; TRANS, from Commerce, 2003 MAR p. 2761; AMD, 2008 MAR p. 1978, Eff. 9/12/08.)

Rules 24.126.908 and 24.126.909 reserved

24.126.910 IMPAIRMENT EVALUATOR CONTINUING EDUCATION

RENEWAL - DENIAL - REVOCATION (1) A minimum of four hours of specialized continuing education relevant to impairment evaluation shall be taken every four years, or within one year of a new edition to the American Medical Association's guides to the evaluation of permanent impairment.

(a) These hours shall be in addition to the continuing education requirement required for a renewed chiropractic license.

(b) A random audit of impairment evaluator certificate holders shall be conducted every four years to verify compliance of the continuing education requirement.

(c) A three month extension will be provided for all licensees who fail to meet the continuing education requirements as a result of an audit. Failure to meet this extension may result in disciplinary action.

(d) Any impairment evaluator seeking a hardship waiver from their continuing education requirements shall apply to the board, in writing, as soon as possible after the hardship is identified and prior to the end of the period for completing the continuing education. Specific details of the hardship must be included. The board must make a finding that a hardship exists. The waiver may be absolute or conditional.

(2) Persistent deviation from generally accepted standards for impairment evaluation is grounds for revocation of the impairment evaluator certificate.

(3) An impairment evaluator must comply with ARM 24.29.1415. These rules can be obtained by contacting the Department of Labor and Industry Workers' Compensation Regulation Bureau.

(4) Impairment evaluator licenses shall be renewed annually. (History: 37-1-136, 37-12-201, MCA; IMP, 37-12-201, MCA; NEW, 1990 MAR p. 1453, Eff. 7/27/90; AMD, 2000 MAR p. 1499, Eff. 5/26/00; TRANS, from Commerce, 2003 MAR p. 2761; AMD, 2006 MAR p. 1609, Eff. 6/23/06; AMD, 2008 MAR p. 1978, Eff. 9/12/08.)

Subchapters 10 through 20 reserved

Subchapter 21

Renewals and Continuing Education

24.126.2101 RENEWALS (1) All chiropractors must renew their license with the board. The renewal date for a chiropractic license is set by ARM 24.101.413.

(2) Renewal notices will be sent as specified in ARM 24.101.414.

(3) A license that is not renewed within two years of the most recent renewal date automatically terminates. The terminated license may not be reactivated, and a new original license must be obtained by submitting a new application and meeting all the requirements of ARM 24.126.501 and paying the appropriate fees in accordance with ARM 24.101.403. An applicant who has previously held a license that is terminated and who has not engaged in the practice of chiropractic for more than three years will be considered a nonroutine application, and will be reviewed by the board.

(4) All licensees shall notify the department of any change in mailing addresses. (History: 37-1-319, 37-12-201, MCA; IMP, 37-1-141, 37-1-306, 37-1-319, MCA; Eff. 12/31/72; AMD, 1979 MAR p. 442, Eff. 5/11/79; AMD, 1979 MAR p. 1302, Eff. 10/16/79; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1982 MAR p. 6, Eff. 1/15/82; AMD, 1983 MAR p. 1247, Eff. 9/16/83; AMD, 1984 MAR p. 499, Eff. 3/30/84; AMD, 1986 MAR p. 1182, Eff. 7/18/86; AMD, 1987 MAR p. 1343, Eff. 8/14/87; AMD, 1990 MAR p. 995, Eff. 6/1/90; AMD, 1990 MAR p. 1144, Eff. 6/15/90; AMD, 1994 MAR p. 1578, Eff. 6/10/94; AMD, 1996 MAR p. 3212, Eff. 10/25/96; AMD, 1998 MAR p. 1494, Eff. 6/12/98; AMD, 2000 MAR p. 1307, Eff. 5/26/00; TRANS, from Commerce, 2003 MAR p. 2761; AMD, 2006 MAR p. 1609, Eff. 6/23/06; AMD, 2006 MAR p. 1583, Eff. 7/1/06; AMD, 2008 MAR p. 1978, Eff. 9/12/08.)

Rule 24.126.2102 reserved

24.126.2103 CONTINUING EDUCATION REQUIREMENTS (1) Every licensee shall complete a minimum of 12 hours of board approved continuing education during each renewal period as defined in ARM 24.101.413. All active licensees shall affirm on all subsequent renewal applications that they have attended and successfully completed a minimum of 12 hours of board approved continuing education in the year preceding the application for renewal. Of the 12 hours, no more than two hours can be in the subject area of philosophy and/or practice management. In addition, the board will require each licensee to demonstrate successful completion of a professional boundary and ethics continuing education course. Four hours of professional boundaries and ethics continuing education will be in addition to the 12-hour continuing education annual requirement. Each licensee will be required to complete the course once every four years. New licensees to the state of Montana have from the date of their original licensure in Montana until the end of their first renewal year to complete their first 12 hours of continuing education, and shall affirm on their second renewal application that they have attended and successfully completed a minimum of 12 hours of board approved continuing education during that period.

(2) Licensees transferring from inactive to active shall abide by the continuing education requirements outlined in ARM 24.126.701.

(3) An annual random audit of 10 percent of active licensees will be conducted to verify compliance of the continuing education requirements.

(4) Clock hours of continuing education cannot be accumulated and carried over from one renewal year to the next renewal year.

(5) It shall be necessary for those attending the Montana Chiropractic Association educational meetings to register with the secretary of the association each day of attendance to receive continuing education credit.

(6) A three-month extension will be provided for all licensees who fail to meet the continuing education requirements as a result of an audit. Failure to meet this extension may result in disciplinary action.

(7) Any licensee seeking a hardship waiver from their continuing education requirements shall apply to the board, in writing, as soon as possible after the hardship is identified and prior to the close of licensure for that year. Specific details of the hardship must be included. The board must make a finding that a hardship exists. The waiver may be absolute or conditional. (History: 37-1-134, 37-1-319, 37-12-201, MCA; IMP, 37-1-134, 37-1-141, 37-1-306, 37-1-319, MCA; NEW, 2008 MAR p. 1978, Eff. 9/12/08.)

Rule 24.126.2104 reserved

24.126.2105 APPROVED CONTINUING EDUCATION (1) Continuing education approved by the board must directly relate to the practice of chiropractic and shall be affiliated with national, regional, or state chiropractic associations, state licensing boards, academies, colleges of chiropractic, or education approved by the Federation of Chiropractic Licensure Board (FCLB) Providers of Approved Continuing Education (PACE).

(2) From the date of their original licensure in Montana until the end of the first renewal period, new licensees can fulfill the continuing education requirement by attending one session of the "new doc seminar" in lieu of the 12-hour continuing education requirement.

(3) All licensees can receive two credits for each chiropractic board meeting attended.

(4) All Internet courses must meet the same guidelines for continuing education approval.

(5) The board shall not approve a course of study if it is considered outside the "scope of practice" for a chiropractor in Montana.

(6) All continuing education not listed in this rule must be submitted for review and approval by the board on a case-by-case basis. (History: 37-1-319, 37-12-201, MCA; IMP, 37-1-141, 37-1-306, 37-1-319, MCA; NEW, 2008 MAR p. 1978, Eff. 9/12/08.)

Subchapter 22 reserved

Subchapter 23

Unprofessional Conduct

24.126.2301 UNPROFESSIONAL CONDUCT (1) For the purpose of implementing the provisions of 37-1-316, MCA, the board further defines unprofessional conduct as follows:

- (a) using or causing to be used advertising matter which contains:
 - (i) misstatements, falsehoods, misrepresentations, or distorted and fabulous statements relative to cures or treatments;
 - (ii) statements which may in any way reflect against a fellow licensee including statements which imply superiority over another licensee or health care professional; or
 - (iii) personal advertising claiming particular abilities, features, or accomplishments regarding the licensee or areas of specialty practice unless documentation of such abilities, features, accomplishments, or specialties are documented with the board prior to placing the advertisement.
- (b) engaging in or soliciting sexual relations with a patient, sexual misconduct either verbal or physical, sexual contact, sexual exploitation, or a sex offense, as defined in 45-2-101, MCA, when such act or solicitation is related to the practice of chiropractic;
- (c) violating any state or federal statute or administrative rule regulating the practice of chiropractic including any statute or rule defining or establishing standards of patient care or professional conduct of practice;
- (d) engaging in, or being involved in, "fee splitting" in which a licensee gives or receives payments or fees in referral of a patient to any professional;
- (e) soliciting or accepting, for services rendered, assigned payments from any third-party payer as payment in full, if the effect is to eliminate the need of payment by the patient of any required deductible or co-payment applicable on the patient's health benefit plan, except as hereinafter provided;
- (f) billing charges or fees to a third-party payer or collecting from a third-party payer on behalf of a patient at a different rate than the charge or fee actually billed to or collected from the patient. In the case where services are provided at a reduced rate to a patient because of the patient's inability to pay for the services at their regular or undiscounted rate, any charge or fee billed to or collected from a third party must be based upon the actual reduced rate billed to the patient;
- (g) engaging in, or providing services or treatments which are in excess of those warranted by either the patients' condition and response or the practice technique, methodology, or modality applied and are not consistent with the seriousness of diagnosis;

(h) participating in, or conducting, research projects on patients or the public without first obtaining written authorization from the board;

(i) failing to make reports and records available to the board upon request, failure to cooperate with a board investigation or knowingly giving false information to the board;

(j) performing an examination, chiropractic manipulation, or adjustment intra-vaginally;

(k) performing an adjustment intrarectally unless the following conditions are met:

(i) a written consent form is signed by the patient for each adjustment. The consent form must clearly offer external adjustment options;

(ii) the intra-rectal adjustment must be diagnosis related;

(iii) the adjustment is performed with the use of a disposable finger cot or rubber glove; and

(iv) a chaperone is present at all times the patient is examined and treated intrarectally.

(l) falsifying, altering, or making incorrect essential entries or failing to make essential entries of patient records;

(m) violating any state, federal, provincial, or tribal statute or administrative rule governing or affecting the professional conduct of any licensee;

(n) providing professional services while impaired by dangerous drugs or controlled substances;

(o) failing to obtain an appropriate consultation or make an appropriate referral when the problem of the patient is beyond the licensee's training, experience or competence;

(p) failing to render adequate supervision, management, training, or control of auxiliary staff or other persons, including preceptors, temporary permit holders, and/or licensees practicing under the licensee's supervision or control according to generally accepted standards of practice;

(q) failing to cooperate with a board inspection or investigation in any material respect; or

(r) failing to keep adequate patient records that are legible and contain at a minimum:

(i) date of service;

(ii) pertinent history;

(iii) relevant symptomatology;

(iv) physical findings;

(v) results of diagnostic tests;

(vi) clinical assessment;

(vii) treatment procedures; and

(viii) patient progress.

(s) charging or collecting a clearly excessive fee. In determining if a fee is clearly excessive the board shall consider the fee or range of fees customarily charged in the state for similar services in light of modifying factors such as the time required, the complexity of the service, and the skill requisite to perform the service properly. This subdivision does not apply if there is a clear written contract for a fixed fee between the physician and the patient that has been entered into before the service was provided;

(t) engaging in the practice of chiropractic when the licensee's license is inactive, has expired, or has been suspended or revoked. (History: 37-1-131, 37-1-319, 37-12-201, MCA; IMP, 37-1-131, 37-1-141, 37-1-316, 37-12-201, 37-12-301, 37-12-322, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1988 MAR p. 475, Eff. 3/11/88; AMD, 1990 MAR p. 995, Eff. 6/1/90; AMD, 1994 MAR p. 1578, Eff. 6/10/94; AMD, 1998 MAR p. 1494, Eff. 6/12/98; AMD, 2000 MAR p. 1307, Eff. 5/26/00; TRANS, from Commerce, 2003 MAR p. 2761; AMD, 2004 MAR p. 729, Eff. 4/9/04; AMD, 2008 MAR p. 1978, Eff. 9/12/08.)